

Message Text

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ACTION NEA-10

INFO OCT-01 ISO-00 EB-08 L-03 /022 W
-----102318 040959Z /16

R 040924Z SEP 77
FM AMEMBASSY KUWAIT
TO SECSTATE WASHDC 8904

UNCLAS KUWAIT 4986

STATE FOR NEA/ARP

E.O. 11652: N/A
TAGS: EWWT, KU
SUBJECT: KUWAIT COURT DECISION ON LIABILITY

REF: STATE 203025

1. ON THE QUESTION OF MAXIMUM LIABILITY FOR DAMAGES TO CARGO, THE KUWAIT COURT OF CESSATIONS HAS RECENTLY RULED THAT THE FULL CIF VALUE OF CONSIGNMENTS SHOULD BE PAID BY CARRIERS IN THE EVENT OF ANY LOSS OR DAMAGE TO ANY TYPE OF CONSIGNMENT, WHETHER PACKED IN CARTONS, CASES OR CONTAINERS.

2. BY ENACTING LAW NO. 21 OF 1969, THE GOVERNMENT OF KUWAIT (GOK) BROUGHT THE BRUSSELS CONVENTION RULES INTO EFFECT. AT THE SAME TIME, LAW NO. 21 OF 1969 MADE A SPECIFIC RESERVATION THAT KUWAIT WOULD NOT APPLY THE 100 POUNDS STERLING PER PACKAGE LIMIT. THE GOK ISSUED AN EXPLANATORY MEMORANDUM IN WHICH THE PACKAGE LIMIT WAS SET AT KD 250 (\$875.00). THE KUWAIT COMMERCIAL COURT SUBSEQUENTLY RULED THAT THIS RESERVATION WAS LEGALLY ACCEPTABLE AND BINDING ON THE COMMERCIAL CARRIERS OF ALL COUNTRIES WHOSE GOVERNMENTS RATIFIED THE BRUSSELS CONVENTION, EXCEPT FRANCE AND DENMARK.

3. A NUMBER OF SHIPPING COMPANIES WITH OFFICES IN KUWAIT BELIEVE THAT THERE IS NOTHING IN THE BRUSSELS CONVENTION
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OR THE HAGUE RULES WHICH COULD PREVENT KUWAIT FROM SETTING THIS FULL CIF VALUE AS ITS LIMIT AS THE COURT OF CESSATIONS' RULING APPARENTLY HAS DONE.

4. KUWAIT'S MARITIME RULINGS ARE CURRENTLY BASED ON THE 1959 ACT OF CARRIAGE, WHICH WILL BE SUPERCEDED BY FORTHCOMING REVISIONS OF THE KUWAIT MARITIME CODE.

THE CODE WILL BE BASED ON PRESENT FRENCH, LEBANESE, AND EGYPTIAN LAWS. IN KUWAIT, COURT RULINGS DO NOT HAVE TO ADHERE, AND HAVE NOT ADHERED, TO PRECEDENTS SET BY PREVIOUS RULINGS.

5. COPIES OF THE DOCUMENTS ON THIS MATTER WE HAVE THUS-FAR SECURED (WHICH DOES NOT INCLUDE AN OFFICIAL VERSION OF THE COURT RULING) WILL BE POUCHED TO NEA/ARP SEPT. 7. MAESTRONE

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: CARGO HANDLING, COURT DECISIONS
Control Number: n/a
Copy: SINGLE
Sent Date: 04-Sep-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01-Jan-1960 12:00:00 am
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977KUWAIT04986
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770321-0330
Format: TEL
From: KUWAIT
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770998/aaaadelq.tel
Line Count: 71
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 4036fb4d-c288-dd11-92da-001cc4696bcc
Office: ACTION NEA
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: 77 STATE 203025
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 17-Nov-2004 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1387438
Secure: OPEN
Status: NATIVE
Subject: KUWAIT COURT DECISION ON LIABILITY
TAGS: EWWT, KU
To: STATE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/4036fb4d-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009